IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 20TH SEPTEMBER 2007 / 29TH BHADRA 1929

Crl.MC.No. 2887 of 2007()

CC.220/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT-II,NEYYATTINKARA

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PETITIONER: PETITIONERS/A1 TO A5

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1. SUMMISH MOHAN, AGE 29,
   S/O.K.SIVANANDAN,S.M.SADANAM,
   VATTAVILA, KOTTUKAL P.O.,
   THIRUVANANTHAPURAM.

2. MOHANAKUMARI,AGE 52,
   D/O.SREEMATHY.DO.DO.

3. K.VASUDEVAN,AGE 64,
   S/O. KESAVAPANICKER,DO...DO..

4. SOUMYA, AGE 26,
   D/O. MOHANAKUMARI,DO...DO..

5. SANTHOSH, AGE 36,
   S/O.G.SIVANANDAN,P.R.S ENCLAVE,FFLAT NO.G2,
   BLOCK 1,NEAR KARMAL SCHOOL,JAGATHY,
   THIRUVANATHAPURAM.

BY ADV. SRI.SASTHAMANGALAM S. AJITHKUMAR
SRI.SHAJIN S.HAMEED

RESPONDENTS:

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1. THE STATE OF KERALA
   REPRESENTED BY THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA,ERNAKULAM.

2. RANI.S.SATHYAN,D/O SHAKUNTHALA,
   LIJU NIVAS (MRA 26),NEAR VIRALAM GOVT. GIRLS
   HIGH SCHOOL, ATTINGAL.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2887 of 2007

Dated this the 20th day of September 2007

O R D E R

The petitioners face allegations inter alia under Section 498A read with 34 I.P.C. They are the husband of the de facto complainant and his relatives. Investigation is complete. Final report has already been filed. Cognizance has been taken by the learned Magistrate. The petitioners have come to this court with this petition under Section 482 Cr.P.C to quash the proceedings against the petitioners invoking the powers under Section 482 Cr.P.C.

2. What is the reason? How can extraordinary inherent powers under Section 482 Cr.P.C be invoked by this court? The short contention of the learned counsel for the petitioners is that the allegations raised are untenable and unacceptable. There is of course another contention that as against the accused, the allegation is groundless even on the materials collected by the investigating officer. Premature termination of proceedings initiated against an accused who does not deserve to be stand the tedium of trial can be achieved in accordance with the provisions of the court by claiming discharge under Section 239/240 Cr.P.C. When an accused person does not take resort to

that course and comes to this court with a prayer for invocation of powers under Section 482 Cr.P.C, it is for him to show satisfactory reasons justifying the invocation of such powers.

3. In every case where premature termination by discharge is a possibility, it is not necessary or invariable that this court should invoke the powers under Section 482 Cr.P.C. Normally the procedure prescribed by the Code has to be advantageously followed.

4. Having gone through the entire materials available and having heard the learned counsel for the petitioners, I need only mention that I find no circumstances justifying or warranting the invocation of the extraordinary inherent jurisdiction under Section 482 Cr.P.C.

5. This petition is accordingly dismissed.

6. Lest any unintended negative message be conveyed, I make it clear that the dismissal of this petition will not in any way absolve the learned Magistrate of his duty to consider the claim of the petitioners for discharge at the stage of Section 239/240 Cr.P.C on merits and in accordance with law.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007